



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

PRIDE
5701 MAPLE AVENUE SUITE 100
DALLAS TX 75235

Respondent Name

ACE AMERICAN INSURANCE CO

Carrier's Austin Representative Box

Box Number 15

MFDR Tracking Number

M4-12-3035-01

MFDR Date Received

MAY 30, 2012

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Per the explanation of benefits from Sedgwick they processed the claim and denied it for timely filing which makes no sense since we submit the bills electronically. We then called the carrier on 7/27/11 they said they did not have the claim so we explained to them that they were sent electronically and then we L/M for the adjuster of this issue on 9/29/11 which at this time was Gwen McKee and then a new adjuster Patsy Calhoun asked me to send her a spreadsheet of all the unpaid claims which was sent to her on 2/21/12 no response so I contacted the adjuster Patsy Calhoun on 3/27/12 for her to handle all the unpaid claims as a verbal appeal still nothing has been done. I then spoke to her supervisor Sherry Swiney and the spreadsheet was sent to her as well on 5/10/12 and nothing has been done. I called a couple of times to see what has been done and no response so I have to move to the next step, which is MDR."

Amount in Dispute: \$4,455.34

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Please note that the dates of service 5/24/11 and 5/26/11 should be immediately dismissed from this dispute as they were not timely filed in accordance with DWC Rule 133.307(c)(1)(A)...Requestor contends that they timely and correctly electronically billed the date of service at issue in this matter. However, Requestor provided insufficient documentation to prove that the bills were electronically transmitted to Respondent's clearing house. The documentation they use does not reference acceptance by Respondent's clearinghouse. It merely says 'date submitted/route.' There is no notation that the bill was accepted by the clearinghouse for the Carrier. Without that identification, it is unknown if the electronic filing was accepted...In conclusion, Respondent did not receive a proper bill until the paper bill was received more than 95 days after the date of service."

Response Submitted by: Downs Stanford, P.C., 2001 Bryan Street, Suite 4000, Dallas, TX 75201

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 24, 2011	CPT Code 97530 (X4)	\$180.00	\$0.00
May 26, 2011	CPT Code 97530(X4)	\$180.00	\$0.00

June 2, 2011	CPT Code 97530(X4)	\$180.00	\$180.00
June 14, 2011	CPT Code 97530(X4)	\$180.00	\$180.00
August 8, 2011 through August 11, 2011	CPT Code 97530 (X20)	\$900.00	\$900.00
August 10, 2011	CPT Code 97530 (X12)	\$540.00	\$540.00
August 26, 2011	CPT Code 97530 (X8)	\$360.00	\$360.00
August 30, 2011	CPT Code 97530 (X10)	\$450.00	\$450.00
August 31, 2011	CPT Code 97750-FC (X16)	\$704.00	\$704.00
August 31, 2011 through September 1, 2011	CPT Code 99214 and 99455-V5-WP	\$781.34	\$164.81
TOTAL		\$4455.34	\$3,478.81

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. Texas Labor Code, Section §408.027(a), titled *PAYMENT OF HEALTH CARE PROVIDER*, effective September 1, 2007, states "A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."
3. 28 Texas Administrative Code §134.204, titled *Medical Fee Guideline for Workers' Compensation Specific Services*, effective March 1, 2008, sets out reimbursement guidelines for specific medical professional services.
4. Division rule at 28 TAC §134.203, titled *Medical Fee Guideline for Professional Services*, effective March 1, 2008, sets out reimbursement guidelines for medical professional services.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:
Explanation of benefits dated September 26, 2011, September 28, 2011, October 5, 2011, January 12, 2012, and January 13, 2012
 - 29-The time limit for filing has expired.
 - 937-Service(s) are denied based on HB7 provider timely filing requirement. A provider must submit a medical bill to the insurance carrier on or before the 95th day after the date of service.

Issues

1. Were the disputed dates of service submitted timely in accordance with 28 Texas Administrative Code §133.307?
2. Did the requestor support position that disputed claims were submitted timely?
3. Is the requestor entitled to reimbursement for CPT code 97530?
4. Is the requestor entitled to reimbursement for CPT code 97550-FC?
5. Is the requestor entitled to reimbursement for CPT code 99214?
6. Is the requestor entitled to reimbursement for CPT code 99455-V5-WP?

Findings

1. 28 Texas Administrative Code §133.307(c)(1) states: "Timeliness. A requestor shall timely file with the Division's MDR Section or waive the right to MDR. The Division shall deem a request to be filed on the date the MDR Section receives the request. (A) A request for medical fee dispute resolution that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute." The dates of the services in dispute are May 24, 2011 through September 1, 2011. The request for medical dispute resolution was received in the Medical Dispute Resolution (MDR) section on May 30, 2012. Dates of service May 24, 2011 and May 26, 2011 are later than one year filing deadline. Review of the submitted documentation finds that the disputed services do not involve issues identified in §133.307, subparagraph (B). The Division concludes that the requestor has failed to timely file this dispute for dates of service May 24, 2011 and May 26, 2011 with the Division's MDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for these dates.

2. According to the submitted explanation of benefits, the respondent denied reimbursement for the disputed services based upon reason codes "29-The time limit for filing has expired"; and "937-Service(s) are denied based on HB7 provider timely filing requirement. A provider must submit a medical bill to the insurance carrier on or before the 95th day after the date of service".

The requestor states that "...we submit the bills electronically... We then called the carrier on 7/27/11 they said they did not have the claim so we explained to them that they were sent electronically and then we L/M for the adjuster of this issue on 9/29/11 which at this time was Gwen McKee and then a new adjuster Patsy Calhoun asked me to send her a spreadsheet of all the unpaid claims which was sent to her on 2/21/12 no response so I contacted the adjuster Patsy Calhoun on 3/27/12 for her to handle all the unpaid claims as a verbal appeal still nothing has been done. I then spoke to her supervisor Sherry Swiney and the spreadsheet was sent to her as well on 5/10/12 and nothing has been done."

Review of the submitted information finds that the documentation supports that the medical bills were submitted within 95 days from the date of service. Therefore, pursuant to Texas Labor Code §408.027(a), the requestor is due reimbursement for the disputed dates of service.

3. The requestor billed CPT code 97530 – "Therapeutic activities, direct (one-on-one) patient contact by the provider (use of dynamic activities to improve functional performance), each 15 minutes" on June 2, 2011, June 14, 2011, August 8, 2011, August 10, 2011, August 11, 2011, August 26, 2011, and August 30, 2011.

Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007."

The 2011 DWC Conversion factor is \$54.54.

Review of Box 32 on the CMS-1500 the services were rendered in zip code 75235, which is located in Dallas County.

The MAR for CPT code 97530 in Dallas County is \$52.04/15 minutes. The requestor is seeking \$45.00/15minutes. The requestor billed for 58 units resulting in a reimbursement due of \$3,018.32. The respondent paid \$0.00; therefore, the requestor is due \$3,018.32.

4. On August 31, 2011, the requestor billed CPT code 97750-FC – "Physical performance test or measurement (eg, musculoskeletal, functional capacity), with written report, each 15 minutes."

28 Texas Administrative Code §134.204 (g) states "The following applies to Functional Capacity Evaluations (FCEs). A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the Division shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using CPT Code 97750 with modifier "FC." FCEs shall be reimbursed in accordance with §134.203(c)(1)

of this title. Reimbursement shall be for up to a maximum of four hours for the initial test or for a Division ordered test; a maximum of two hours for an interim test; and, a maximum of three hours for the discharge test, unless it is the initial test.”

The MAR for CPT code 97750-FC in Dallas County is \$50.37/15 minutes. The requestor is seeking \$44.00/15minutes; A review of the submitted bill indicates that the requestor billed for 16 units; therefore, the amount due is \$44.00 multiplied by 16 = \$704.00. The respondent paid \$0.00; therefore, the requestor is due \$704.00.

5. On August 31, 2011, the requestor billed CPT code 99214 – “Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: A detailed history; A detailed examination; Medical decision making of moderate complexity. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Physicians typically spend 25 minutes face-to-face with the patient and/or family.”

The MAR for CPT code 99214 in Dallas County is \$164.81. The respondent paid \$0.00; therefore, the requestor is due \$164.81.

6. On September 1, 2011 the requestor billed CPT code 99455-V5-WP for a maximum medical improvement and/or impairment rating evaluation.

28 Texas Administrative Code §134.204 (j) states “Maximum Medical Improvement and/or Impairment Rating (MMI/IR) examinations shall be billed and reimbursed as follows: (1) The total MAR for an MMI/IR examination shall be equal to the MMI evaluation reimbursement plus the reimbursement for the body area(s) evaluated for the assignment of an IR.”

28 Texas Administrative Code §134.204 (j) (3)(A)(i) and (ii) states “The following applies for billing and reimbursement of an MMI evaluation. (A) An examining doctor who is the treating doctor shall bill using CPT Code 99455 with the appropriate modifier. (i) Reimbursement shall be the applicable established patient office visit level associated with the examination. (ii) Modifiers "V1", "V2", "V3", "V4", or "V5" shall be added to the CPT code to correspond with the last digit of the applicable office visit.”

The requestor added modifier “V5” to the CPT code.

28 Texas Administrative Code §134.204 (j) (4)(A) states “The following applies for billing and reimbursement of an IR evaluation. The HCP shall include billing components of the IR evaluation with the applicable MMI evaluation CPT code. The number of body areas rated shall be indicated in the units column of the billing form.”

The requestor noted on the medical bill one unit.

28 Texas Administrative Code §134.204 (j) (4)(C) (ii) states “The MAR for musculoskeletal body areas shall be as follows.

(I) \$150 for each body area if the Diagnosis Related Estimates (DRE) method found in the AMA Guides 4th edition is used.

(II) If full physical evaluation, with range of motion, is performed:

(-a-) \$300 for the first musculoskeletal body area; and

(-b-) \$150 for each additional musculoskeletal body area.”

A review of the submitted documentation finds that the requestor failed to submit a copy of the MMI/IR examination report; therefore, the requestor failed to support billed service. Reimbursement for CPT code 99455-V5-WP is not recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$3,478.81.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$3,478.81 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

9/28/2012

Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.